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Docket # PF-0221-3 DIV

"Express Mail" mailing label number EL 856 152 193 US. I hereby certify that this document and referenced attachments are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, addressed to: Commissioner for Patents, Box Patent Application, Washington, D.C. 20231 on November 16, 2001

By: Nancy Ramos

Printed: Nancy Ramos

JCS42 U.S. PTO  
09/991212

11/16/01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.53(b)**

Commissioner for Patents  
Box Patent Application  
Washington, D.C. 20231

Dear Sir:

This is a request for filing a **DIVISIONAL** application under 37 CFR 1.53(b) of pending prior U.S. application Serial No. 09/391,958, filed on September 8, 1999, entitled NOVEL HUMAN SODIUM-DEPENDENT PHOSPHATE COTRANSPORTER, which is a divisional application of U.S. application Serial No. 08/805,118, filed February 24, 1997, which issued on November 16, 1999 as U.S. Patent No. 5,985,604, entitled HUMAN SODIUM-DEPENDENT PHOSPHATE COTRANSPORTER.

1.  Enclosed is a specification corresponding to the prior application, U.S. application Serial No. 09/391,958, filed September 8, 1999, which is a divisional application of U.S. application Serial No. 08/805,118, filed February 24, 1997, which issued on November 16, 1999 as U.S. Patent No. 5,985,604, including the oath or declaration as originally signed. The specification does not contain any subject matter that would have been new matter in the prior application.
  
2.  With regard to the requirement of 37 CFR 1.821(e) which requires that a copy of the Sequence Listing in computer readable form (CRF) be submitted, Applicants state that the paper copy of the Sequence Listing for the instant divisional application is identical with the computer readable form filed with U.S. application Serial No. 08/805,118, filed February 24, 1997, which issued on November 16, 1999 as U.S. Patent No. 5,985,604, to which priority is claimed. In accordance with 37 C.F.R. §1.821(e), please use the computer readable form filed with U.S. application Serial No. 08/805,118, filed February 24, 1997, which issued on November 16, 1999 as U.S. Patent No. 5,985,604, as the computer readable form for the instant divisional application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant divisional application.

3.  Cancel in this application original claims 2, 8, 17-27, 30-45 and 49-56 before calculating the filing fee, without prejudice or disclaimer. Applicants submit that these claims were included in the application as filed in the interest of providing notice to the public of certain specific subject matter intended to be claimed, and are being canceled at this time in the interest of reducing filing costs. Applicants expressly state that these claims are not being canceled for reasons related to patentability, and are in fact fully supported by the specification as filed. Applicants expressly reserve the right to reinstate these claims or to add other claims during prosecution of this application or a continuation or divisional application. Applicants expressly do not disclaim the subject matter of any invention disclosed herein which is not set forth in the instantly filed claims.

4.  The inventor(s) of the invention being claimed in this application is (are): Preeti Lal and Olga Bandman.

5.  In accordance with 37 CFR 1.63(d) a copy of the originally signed declaration showing applicant's/applicants' signature(s) as filed on August 6, 1997 is enclosed.

6.  Amend the specification by inserting after the title: "This application is a divisional application of U.S. application serial number 09/391,958, filed September 8, 1999, all of which applications and patents are hereby incorporated herein by reference."

7.  The filing fee is calculated below:

Claims	Number Filed	Minus	Number Extra	Other Than Small Entity Rate		Basic Fee \$740.00
				x \$18		
Total Claims	20	-20	0	x \$18		\$ 0
Indep. Claims	3	-3	0	x \$84		\$ 0
<u>Multiple Dependent Claim(s), if any</u>				+ \$280		\$ 0

**TOTAL FILING FEE \$ 740.00**

8.  An extension of time in the above-named prior application has been requested and the fees therefore have been authorized in said application.

9.  Please charge Deposit Account No. **09-0108** in the amount of **\$ 740.00**.

The Commissioner is hereby authorized to charge any additional fees which may be required or

credit any overpayment to Deposit Account No. 09-0108.

A duplicate copy of this Request is enclosed.

10.  New formal drawings are enclosed.

11.  The prior application is assigned of record to Incyte Pharmaceuticals, Inc., recorded on August 11, 1997, at reel 9779/frame 0302.

12.  A preliminary amendment is enclosed.

13.  Also enclosed: Return Postcard; Submission of Formal Drawings (2 pp.); Information Disclosure Statement (2 pp.); List of References Cited by Applicants (PTO-1449) (2 pp.); and copy of Limited Recognition Under 37 C.F.R. §10.9(b) (1 pg.).

14.  The power of attorney of the prior application is to:

Narinder S. Banait	Reg. No. 43,482
Adam Warwick Bell	Reg. No. 43,490
Lucy J. Billings	Reg. No. 36,749
Michael C. Cerrone	Reg. No. 39,132
Diana Hamlet-Cox	Reg. No. 33,302
Colette C. Muenzen	Reg. No. 39,784
Lynn E. Murry	Reg. No. 42,918
Danielle M. Pasqualone	Reg. No. 43,847
Susan K. Sather	Reg. No. 44,316
David G. Streeter	Reg. No. 43,168

The associate power of attorney in the prior application is to:

a.  A Revocation of Power of Attorney and Appointment of New Attorneys (2 pp.) is attached.

b.  Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.

c. X Address all future correspondence to:

**INCYTE GENOMICS, INC.**  
**PATENT DEPARTMENT**  
**3160 Porter Drive**  
**Palo Alto, California 94304**  
**Phone: (650) 855-0555, Fax: (650) 845-4166**

Date: Nov. 16, 2001.

By:

Terence P. Lo

Limited Recognition (37 C.F.R. 10.9 (b)) attached

Direct Dial Telephone: (650) 621-8581

*Terence Lo*  
Representative Capacity 37 CFR 1.34(a)

- Inventor(s)
- Assignee of complete interest
- Attorney or agent of record
- Filed under 37 CFR 1.34(a)
- Registration number if acting under 37 CFR 1.34(a) \_\_\_\_\_.